

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL L. FAVORS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 09-1324
)	Judge McVerry
JEFFREY BEARD,)	Magistrate Judge Bissoon
)	
Defendant.)	

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

I. RECOMMENDATION

It is respectfully recommended that this action be dismissed, without prejudice to Plaintiff's right to re-file this action within the applicable statute of limitations period by paying the full filing fee of \$350.00 or moving to proceed *in forma pauperis*.

II. REPORT

Plaintiff is an inmate presently confined at the Westmoreland County Prison, who submitted a prisoner civil rights complaint for filing on September 29, 2009, without the required filing fee or a motion seeking leave to proceed *in forma pauperis*. An Order was entered on September 29, 2009, directing Plaintiff to either pay the filing fee or move to proceed *in forma pauperis* on or before October 20, 2009 (Doc. 2). Plaintiff did not respond and on October 27, 2009, he was ordered to show cause on or before November 17, 2009, why his action should not be dismissed (Doc. 3). Plaintiff has not responded.

Plaintiff's refusal to comply with the directives contained in the Court's September 29, and October 27, 2009 orders prevents the Court from filing his Complaint. Because Plaintiff has

not complied with this Court's Orders, it must be concluded that he no longer desires to maintain this action.

It is respectfully recommended that this action be dismissed without prejudice. Plaintiff should be permitted to re-file this action, within the applicable statute of limitations period, by paying the full filing fee of \$350.00.

In accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Civil Rules for Magistrates, objections to this Report and Recommendation are due by December 9, 2009. Failure to timely file objections may constitute a waiver of any appellate rights.

November 25, 2009

s/Cathy Bissoon
Cathy Bissoon
United States Magistrate Judge

cc:
MICHAEL L. FAVORS
2114-2009
Westmoreland County Prison
3000 South Grande Boulevard
Greensburg, PA 15601